

# City of Brook Park

Thomas J. Coyne, Jr., Mayor

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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Mr. William Kennard  
Chairman Designate  
Federal Communications Commission  
1919 M Street, NW  
Washington, D.C. 20554

Ex Parte Letter Re: Cases WT 97-192, MM Docket 97-182, and DA 96-2140

Dear Chairman Kennard:

Please terminate all action in the preceding cases. Attempts to make the FCC the "Federal Zoning Commission" for cellular and broadcast towers violates the intent of Congress, the Constitution and principles of Federalism.

Congress and the courts have long recognized that zoning is a matter of peculiarly local concern. The FCC has no zoning knowledge or expertise and is not accessible to most citizens.

For these reasons and others, Congress expressly preserved local zoning authority over cellular towers in the 1996 Act. Now the FCC is trying to get this jurisdiction back by issuing rules which improperly infringe on local zoning authority.

The FCC's efforts to assume jurisdiction over any local zoning matter where RF radiation is mentioned is unacceptable. The FCC ignores the fact that we cannot necessarily control the statements citizens make during meetings of our legislative bodies. Many municipalities, by state or local law, are required to allow citizens to speak on any topic they wish, even on items that are not on the agenda. This is part of what local government is all about.

Some of our citizens may be concerned about radiation from cellular towers. For the reasons just described we cannot necessarily prevent them from mentioning their concerns to us. The FCC's attempt to use this as a means to seize zoning authority and reverse local decisions violates basic principles of Federalism, Freedom of Speech and the rights of our citizens to petition their government.

6161 Engle Road • Brook Park, Ohio 44142  
216/433-1300 • Fax 216/433-1511

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Similarly, please terminate the FCC's proposed rulemaking preempting local zoning of broadcast towers. As you well know, broadcast towers can be over 2,000 feet high -- they are some of the tallest structures known to man. It is therefore astounding that you would propose that municipalities can't consider the impact of such towers on property values, the environment or aesthetics and that even safety considerations take second place. Safety always has to be the first priority.

And setting artificial time limits for municipalities to act on environmental, zoning and building permit approvals for such towers serves no useful purpose. It is violation of the U.S. Constitution, the Communications Act and Federalism for you to put time limits on municipalities to act on all local approvals and then state that all such applications will be automatically deemed granted if we don't act within this timeframe, even if the application is incomplete or violates state or local law.

The FCC should consider how it would react if it was told that any broadcast license application would be automatically deemed granted unless the FCC acted on it within 21 to 45 days; that this rule applied whether or not the application was complete; whether or not the application was foreign or domestically owned or otherwise qualified; or even whether the frequencies were available. And the rule would apply without regard to whether the tower for the station was at the end of an airport runway, in a wetland or in a historic district.

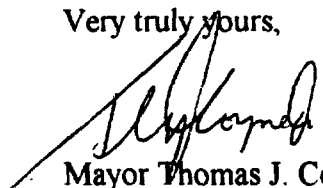
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Very truly yours,



Mayor Thomas J. Coyne  
City of Brook Park

cc: Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, D.C. 20054

cc: [see attached]

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# County of Bath

CLAIRE A. COLLINS  
County Administrator  
P.O. BOX 309  
WARM SPRINGS, VIRGINIA 24484  
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(540) 839-7222 FAX

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

William F. Caton, Acting Secretary  
Office of the Secretary, Room 222  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Re: Ex Parte Letter Re: Cases WT 97-197/MM Docket 97-182,  
and DA 96-2140

Dear Mr. Caton:

We are writing you concerning the Federal Communications Commission's attempts to preempt local zoning of cellular, radio and TV towers by making the FCC the "Federal Zoning Commission" for all cellular telephone and broadcast towers. Congress and the courts have long recognized zoning as a local function. We would appreciate the FCC halting these efforts which violate the intent of Congress, the Constitution and principles of Federalism.

In the 1996 Telecommunications Act, Congress expressly reaffirmed local zoning authority over cellular towers and informed the FCC to stop all rulemakings where the FCC was attempting to become a Federal Zoning Commission for such towers. Despite this instruction from Congress, the FCC is now attempting to preempt local zoning authority in the following three different rulemakings:

1) Cellular Towers - Radiation: Congress expressly preserved local zoning authority over cellular towers in the 1996 Telecommunications Act with the sole exception that municipalities cannot regulate the radiation from cellular antennas if it is within limits set by the FCC. The FCC now is attempting to use the limited authority Congress gave over cellular tower radiation to review and reverse any cellular zoning decision in the U.S. which may be tainted by radiation concerns. If any citizen raises an issue regarding radiation, the FCC believes this is sufficient basis for a cellular zoning decision to immediately be taken over by the FCC and potentially reversed, even if the local jurisdiction expressly says it is not considering such statements and the decision is completely valid on grounds, such as the impact of the tower on property values or aesthetics.

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Federal Communications Commission  
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2) Cellular Towers - Moratoria: The FCC also is proposing a rule banning the moratoria imposed by some localities on cellular towers while the localities revise their zoning ordinances to accommodate the increase in numbers of these towers. This violates the Constitution and directive from Congress preventing the FCC from becoming a Federal Zoning Commission.

3) Radio/TV Towers: The FCC's proposed rule on radio and TV towers sets an artificial limit of 21 to 45 days for local governments to act on any local permit (environmental, building permit, zoning or other). Any permit request is automatically granted if the locality does not act within this timeframe. No provisions have been granted for incomplete applications or violations of local law. This proposed rule would prevent localities from considering impacts towers have on safety, property values, the environment and/or aesthetics. All appeals of zoning and permit denials would go to the FCC and not to local courts as has been past procedure.

Since broadcast towers are some of the tallest structures in the world, the FCC claims these changes are needed to allow TV stations to switch to High Definition Television. Unfortunately, the current schedule will not be met and should be revised to address the concerns of local governments and citizens.

We oppose any effort to grant the FCC the power to act as a "Federal Zoning Commission" and preempt local zoning authority. Local policy makers are best suited to make these decisions for the health, safety and welfare of local residents.

Please take the necessary actions to terminate all these proceedings.

Sincerely,



Claire A. Collins  
County Administrator

sr

cc: Representative Tom Bliley  
Representative Bob Goodlatte  
Representative James Moran  
Mr. Robert Fogel, National Association of Counties  
Mr. James Campbell, Virginia Association of Counties



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City of Cannon Falls

Goodhue County

306 W. Mill Street • Cannon Falls, MN 55009 • (507) 263-3954

FAX • (507) 263-5843

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William Kennard  
Chairman Designate  
Federal Communications Commission  
1919 M. Street, NW  
Washington, DC 20554

*Ex Parte Letter Re: Cases WT 97-192, MM Docket 97-182, and DA 96-2140.*

Dear Chairman Kennard:

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The FCC's efforts to assume jurisdiction over any local zoning matter where RF radiation is mentioned is unacceptable. The FCC ignores the fact that we cannot necessarily control the statements citizens make during meetings of our legislative bodies. Many municipalities, by state or local law, are required to allow citizens to speak on any topic they wish, even on items that are not on the agenda. This is part of what local government is all about.

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For these reasons the proposed actions all violate the Communications Act and the Constitution. Please terminate all these proceedings without taking the actions proposed therein.

Very truly yours,

A handwritten signature in cursive script that reads "Dallas" followed by a stylized flourish.

Dallas Larson  
City Administrator

cc: Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

cc: see attached

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Mr. William Kennard  
Chairman Designate  
Federal Communications Commission  
1919 M St., N.W.  
Washington, DC 20554



CARROLLTON

Milburn R. Gravley

Mayor

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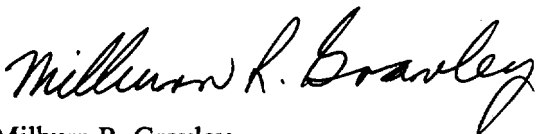
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Very truly yours,



Milburn R. Gravley  
Mayor

cc: William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M St., N.W.  
Washington DC 200554



"The Countrie it selfe, I must  
confesse is a very pleasant land,  
rich in commodities;  
and fertile in soyle..."  
-Samuel Argall, ca. 1609

**Surry County** DOCKET FILE COPY ORIGINAL  
County Administrator's Office EX PARTE OR LATE FILED  
P.O. Box 65  
45 School Street  
Surry, Virginia 23883 DOCKET FILE COPY ORIGINAL

October 29, 1997

TERRY D. LEWIS  
County Administrator  
Telephone: (757) 294-5271  
Fax: (757) 294-5204

Mr. William Kennard  
Chairman Designate  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

97-192

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*"Surry is Something Special"*

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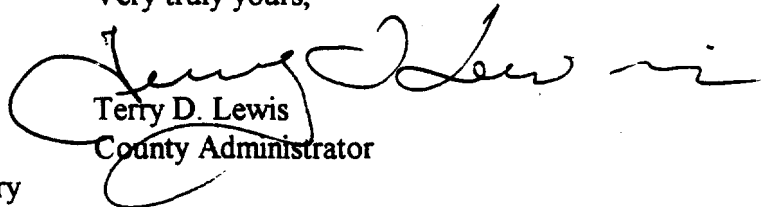
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Terry D. Lewis  
County Administrator

cc: Mr. William F. Caton, Acting Secretary  
Federal Communications Commission

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